

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERIC LYONS,)	
Plaintiff)	
)	
v.)	Civil Action No. 03-75Erie
)	
LT. JOSEPH EMERICK, et al.,)	
Defendants)	

DECLARATION OF ERIC LYONS

I, Eric Lyons, the Plaintiff in the above matter, hereby make the following Declaration in lieu of the physical admission of available evidence under the provisions of 28 U.S.C. §1746 to be filed in the above-captioned administrative proceeding before the United States District Court for the Western District of Pennsylvania and is the legal equivalent of a statement made under oath.

1. I am the pro se litigant in the above matter, am competent to testify, and have personal knowledge of the facts set forth herein.

2. In my possession, I have a video tape that had been produced by WICU News 12 in Erie, Pennsylvania, and made available to my former attorney, Mark Richmond, by Order of the Erie County Court of Common Pleas at the time of my criminal trial which is related to this civil complaint.

3. I had gained possession of the tape once I began acting pro se during my criminal trial and appellate proceedings. The tape is now a permanent part of my record here at SCI-Fayette and is the only copy that I have available.

4. The authenticity of the tape, which contains news footage of me under police escort on or near the time of my arrest, is not questionable, as it depicts images that are similar or the same as those images depicted in the news video presented as Exhibit 7 by Def. Van Slyke in his Motion for Summary Judgment.

5. The only difference between the two tapes is that the speed in my tape has been set in slow motion for several frames that are relevant for the Court's interest. On this tape, the images show that there are numerous contusions on the back of my head that are consistent with having been struck several times. The tape further shows visible swelling on the left side of my face consistent with injuries described in my complaint. This evidence refutes the video presented by Def. Van Slyke and the Defendants' claims that Plaintiff did not suffer injuries as a result of the excessive force used by them during his time in custody.

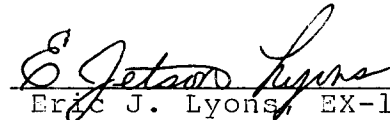
6. I wish to present this video as Pl. Ex. D along with my Response to Defendant Shawn Van Slyke's Motion for Summary Judgment. However, I have no equipment in which to duplicate the tape for the Court's viewing and for the Defendants due to my present state of confinement.

7. Therefore, I ask the Court to consider Plaintiff's current situation and grant some leave or other provision that would allow him to present this evidence--if necessary--to defeat Defendants' Motion for Summary Judgment.

Pursuant to 28 U.S.C. §1746, I declare under the penalty of perjury that the foregoing Declaration is true and correct

to the best of my knowledge. Executed at the State Correctional Institution, Fayette in LaBelle, Pennsylvania on July 28, 2005.

Respectfully submitted,


Eric J. Lyons, EX-1127
50 Overlook Drive
LaBelle, PA 15450

July 28, 2005

Clerk of Courts
P.O. Box 1820
Erie, PA 16507

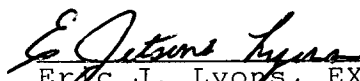
In Re: Lyons v. Emerick, et al.
Civil Action No. 03-75Erie

Dear Clerk:

Please file the within Plaintiff's Response to Defendant Van Slyke's Motion for Summary Judgment in the above cited case for the Court's review. All parties of record have been served accordingly.

Thank you for you attention.

Very truly yours,


Eric J. Lyons, EX-1127
50 Overlook Drive
LaBelle, PA 15450

cc: